

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2821 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes
2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge?

No

PREMJIBHAI SHAMJIBHAI PARMAR

Versus

STATE OF GUJARAT

Appearance:

Shri Harin P. Raval, Advocate, for the Petitioner

Shri A.G. Uraizee, Asst. Government Pleader, for
the Respondents

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 18/10/96

ORAL JUDGEMENT

Can a parcel of land falling outside the urban agglomeration for the purposes of the Urban Land (Ceiling and Regulation) Act, 1976 (the Act for brief) be made subject to the relevant provisions contained therein only on the ground that the land-holder has filed his

declaration in the prescribed form under sec. 6(1) thereof? This question has arisen in this petition under art. 226 of the Constitution of India.

2. The facts giving rise to this petition move in a narrow compass. The petitioner filed his declaration in the prescribed form under sec. 6(1) of the Act with respect to one parcel of land bearing survey No. 410 situated near the market yard (the disputed land for convenience) outside the municipal limits of the Jamnagar Municipality as it existed on 17th February 1976, that is, the date of coming into force of the Act. According to the petitioner, the disputed land is outside the municipal limits of the Municipal Corporation of Jamnagar even today. His declaration has not come to be processed so far. The petitioner has therefore approached this Court for the relief of mandamus directing the Competent Authority at Jamnagar (respondent No.3 herein) to act according to law with respect to his declaration filed under sec. 6(1) of the Act.

3. It is the case of the petitioner that the urban agglomeration of Jamnagar would cover an area represented by 24 meter radius qua the disputed land and nothing more as the remaining portion of the disputed land falls outside the urban agglomeration. That position is not disputed in view of the affidavit-in-reply filed by and on behalf of respondent No.3 in this case. If that be so, it is obvious that the portion of land falling outside the urban agglomeration of Jamnagar would not be amenable to the provisions of the Act. That portion will have to be excluded from the holding of the petitioner. However, the exact area required to be excluded for the purpose will have to be determined by respondent No. 3 when he takes up the declaration filed by the petitioner herein for processing for the purposes of sec. 8 thereof. Respondent No.3 has however not taken up the declaration in the prescribed form for his action according to law as provided in the aforesaid statutory provision contained in sec. 8 of the Act.

4. It is not in dispute that the petitioner filed his declaration under sec. 6 of the Act some two decades ago some time in September 1976. It has remained unattended to for nearly 20 years. I think it is high time that respondent No.3 takes it up for proceeding with the matter according to law under sec. 8 of the Act. Respondent No.3 deserves to be directed to act according to law in the matter.

5. In the result, this petition is accepted. The

Competent Authority at Jamnagar (respondent No.3 herein) is directed to take action according to law with respect to the declaration filed by the petitioner under sec. 6(1) of the Act in the light of this judgment of mine. Since the matter is very old, respondent No. 3 is directed to dispose it of as expeditiously as possible preferably by 31st March 1997. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.
